

This is a state law based employment discrimination action under the California Fair Employment & Housing Act, Cal. Government Code section 12940, et seq. Plaintiff alleges Defendant discriminated against him on the basis of disability, HIV positive status, and/or actual or perceived sexual orientation. Plaintiff is homosexual and suffers from HIV. Plaintiff revealed his HIV positive status to his direct supervisor via email correspondence after he was accused of being lethargic during a company training event. Plaintiff indicated that his doctor confirmed the medications he was taking for HIV might make him appear lethargic. Shortly thereafter, Plaintiff was excluded from previously planned activities with his supervisor and co-workers. Within a week of revealing his HIV positive status, Plaintiff's employment with JPMC was terminated.

- 2 -

1 Plaintiff disputes Defendants' contentions that Plaintiff was fired for legitimate, non-
2 discriminatory reasons, and disputes that the alleged misconduct was the reason for his
3 termination.

4 3. Legal Issues: There appear to be no contested legal issues at this time. Rather,
5 this case turns on factual disputes. Plaintiff contends his termination was the result of unlawful
6 discrimination. Defendant asserts Plaintiff's termination was for legitimate non-discriminatory
7 reasons. There may be contested legal issues that appear later, as this case progresses.

8 4. Motions: Defendant and Plaintiff anticipate a summary judgment/summary
9 adjudication motion following discovery.

10 5. Amendment of Pleadings: The parties do not anticipate any immediate
11 amendment of the pleadings and suggest as a deadline sixty days prior to the date set for the
12 discovery cut-off.

13 6. Evidence Preservation: All documents and other communications relevant to this
14 action have been preserved by JPMC and by Plaintiff.

15 7. Disclosures: Counsel conferred initially on May 21, 2008.

16 Plaintiff has made his initial disclosures as required by Rule 26(a). Plaintiff disclosed the
17 identities of James Halsey, Rick Kradel, Victoria Firestone, Eloise Cookson, Lisa Jelinski, and Pat
18 Sutton, Jamie Dimon, Kimberly Salvo, Corrine Walker, Jamie Meringer, and Andrew Ripps (all
19 employees of JPMC who are believed to have knowledge regarding Plaintiff's claims) and Dr.
20 Todd Sutton, M.D., Plaintiff's physician at Kaiser Permanente, who has knowledge of Plaintiff's
21 HIV status and the effects of his HIV medication. Plaintiff produced documents relating to his
22 complaint with the Department of Fair Employment and Housing, his termination by JPMC, his
23 work at JPMC, and documents relating to his disability. Plaintiff also disclosed his damages
24 claimed, including lost wages (past and future) in the approximate amount of \$181,250, plus
25 future wage loss of approximately \$1.1 million (net present value of the difference between
26 Plaintiff's expected compensation with JPMC for ten years, reduced by the value of the
27 compensation from his current employment). Plaintiff also disclosed that he is claiming emotional
28 distress in an amount according to proof at trial. The amount sought at trial for emotional distress

1 will exceed \$1 million. Plaintiff also disclosed that he is seeking an award of punitive damages
2 against Defendant JPMC.

3 Defendant JPMC will make its initial disclosures prior to the Case Management
4 Conference. Plaintiff anticipates the need for a change in the limitations on discovery contained in
5 the Federal Rules, as described below in Section 8, Discovery.

6 8. Discovery: No discovery other than initial disclosures has been undertaken to date.
7 The parties anticipate that discovery will consist of investigating the factual basis underlying the
8 plaintiff's allegations of discriminatory motives, and the facts supporting Defendant's contentions that the
9 decision to terminate the plaintiff motivated by a legitimate business purpose and supported by after
10 acquired evidence. Plaintiff anticipates discovery regarding (a) Plaintiff's employment history, (b)
11 wage and benefits provided to Plaintiff, (c) the facts and circumstances surrounding the
12 termination of Plaintiff's employment, (d) Defendant's hiring and termination practices, and (e)
13 Defendant's employment practices and policies. Plaintiff also anticipates discovery of
14 Defendant JPMC's financial condition, to support an award for punitive damages.

15 Plaintiff requests the limit of Interrogatories be increased to 40. The parties also request
16 permission to propound the "Form Interrogatories – Employment" and "Form Interrogatories –
17 General" promulgated by the California Judicial Council, and that such Form Interrogatories will
18 not count against the 40 Interrogatory maximum. The parties propose June 5, 2009, as the cut-
19 off date for non-expert-witness discovery.

20 9. Class Actions: This case is not a class action.

21 10. Related Cases: None.

22 11. Relief: Plaintiff claims damages for lost wages, future wage loss, emotional distress,
23 and punitive damages, as well as injunctive relief to prevent Defendant JPMC from engaging in future
24 discriminatory conduct. Defendants contend that in the event liability is established, damages are limited
25 to payment for the one month period commencing with Plaintiff's termination and ending with the
26 discovery of the pornographic images downloaded by Plaintiff onto his JPMC-issued computer pursuant
27

1 to the after- acquired evidence doctrine . Defendants further contend that any calculation in damages must
2 provide credit for the severance package which was offered to plaintiff.

3 Plaintiff disputes Defendant's right to a "credit" for a severance package that was not accepted.

4 12. Settlement and ADR: The parties have stipulated to mediation pursuant to Local Rule 6.
5 Mediation is scheduled for October 15, 2008, with mediator Eileen Barker. If this case does not
6 settle at mediation, Plaintiff requests a settlement conference and respectfully declines to consent
7 to the trial judge acting as the settlement judge.

8 13: Consent to Magistrate Judge for All Purposes: Defendant has declined to proceed before
9 a magistrate judge.

10 14. Other References: None.

11 15. Narrowing of Issues: Defendant anticipates bringing summary judgment/summary
12 adjudication motions on both the retaliation and discrimination claims.

13 16. Expedited Schedule: This case does not appear appropriate for an expedited schedule.

14 17. Scheduling: The parties propose the following pretrial dates:

15 Designation of Experts – March 13, 2009

16 Non-Expert Discovery Cut Off – June 5, 2009

17 Expert Discovery Cut- Off July 1, 2009

18 Pre-Trial Conference – July 22, 2009

19 Dispositive Motion Dates - 60 days before trial – July 23, 2009

20 Trial Date: September 21, 2009

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22 18. Trial: Both parties request a jury trial, which they anticipate will take
23 approximately 10 to 15 court days.

24 19. Defendant will file "Certification of Interested Entities or Persons" pursuant to
25 Rule 3-16 disclosing that. JP Morgan Chase Bank N.A. is a publicly traded corporation and no
26 individual or entity owns more than ten percent of its stock.
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1 Dated: August 22, 2008

GUTIERREZ & ASSOCIATES

2
3 /s/Robert Belshaw
4 Robert Belshaw
Attorneys for Defendant

5
6 Dated: August 22, 2008

THE DOLAN LAW FIRM

7 /s/ Shawn R. Miller
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10 Dated: August 22, 2008

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